

**UNITED STATES DISTRICT COURT
IN THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

FREDERICK MASSEY,
Petitioner

v.

WARDEN O PEREZ,
Respondent

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Civil No. CC-07-319


ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS RELIEF

On January 14, 2008, the United States Magistrate Judge issued a memorandum recommending the Court grant Respondent's motion to dismiss Petitioner's application for habeas corpus relief. The basis for her recommendation is that Petitioner has failed to exhaust state court remedies. Petitioner did not file objections. The Court regards such omission as Petitioner's agreement with and acceptance of the Magistrate Judge's findings.

The Court finds no clear error in the Magistrate Judge's memorandum and adopts her findings and conclusions. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1420 (5th Cir. 1996)). Before submitting claims for federal habeas review, an inmate must raise his claim with the Texas Court of Criminal Appeals either in a petition for discretionary review or in an application for writ of habeas corpus. *Myers v. Collins*, 919 F.2d 1974, 1076 (5th Cir. 1990). Petitioner has not presented his arguments to the Texas Court of Criminal Appeals.

Respondent's motion to dismiss is GRANTED (D.E. 12). Petitioner's petition for a writ of habeas corpus relief is DISMISSED without prejudice for failure to exhaust state court remedies (D.E. 1). Should Petitioner request a Certificate of Appealability, it is DENIED.

ORDERED this 20 day of March, 2008.



HAYDEN HEAD
CHIEF JUDGE